

**ASSEMBLY BILL**

**No. 2637**

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**Introduced by Assembly Member Chesbro**

February 19, 2010

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An act to amend Sections 1100, 1101, 1105, 1110, 1112, 1114.5, 1125, 1126, 1127, 1128, 1132, 1133, 1140, 1141, 1150, 1170.3, 1177, 1190.1, 1192, and 1195 of, and to amend the heading of Division 5 (commencing with Section 1100) of, the Harbors and Navigation Code, relating to bay pilots, and making an appropriation therefor.

LEGISLATIVE COUNSEL'S DIGEST

AB 2637, as introduced, Chesbro. Bay pilots: Humboldt Bay.

(1) Existing law establishes the Humboldt Bay Harbor, Recreation, and Conservation District within Humboldt County. Existing law provides for the regulation and licensing of pilots for Humboldt Bay by the Board of Commissioners of the Humboldt Bay Harbor, Recreation, and Conservation District.

Existing law provides for the regulation and licensing of pilots for Monterey Bay and the Bays of San Francisco, San Pablo, and Suisun by the Board of Pilot Commissioners for the Bays of San Francisco, San Pablo, and Suisun.

This bill would apply those provisions also to persons who pilot vessels into or out of any harbor or port of the bay of Humboldt Bay.

(2) Under existing law, any person who does not hold a license as a pilot or as an inland pilot and who pilots any vessel into or out of any harbor or port of Monterey Bay or the Bays of San Francisco, San Pablo, or Suisun, or who acts as a pilot for ship movements or special operations upon the waters of any of those bays, is guilty of a misdemeanor.

By expanding the scope of persons subject to that law to include pilots in Humboldt Bay, the bill would impose a state-mandated local program by creating a new crime.

(3) Existing law requires all moneys received by the Board of Pilot Commissioners pursuant to any statute to be deposited in the Board of Pilot Commissioners' Special Fund. The fund is continuously appropriated for the payment of the compensation and expenses of the board, its officers and employees, and the pilot training programs. Existing law specifies the rates for pilotage for vessels entering or leaving Monterey Bay and the Bays of San Francisco, San Pablo, and Suisun. Existing law also imposes various surcharges for, among other things, board operations, training programs, and pension benefits.

Because this bill would increase the amount of money deposited in a continuously appropriated fund, the bill would make an appropriation.

(4) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: yes. Fiscal committee: yes.

State-mandated local program: yes.

*The people of the State of California do enact as follows:*

1 SECTION 1. The heading of Division 5 (commencing with  
2 Section 1100) of the Harbors and Navigation Code is amended to  
3 read:

4  
5 DIVISION 5. PILOTS FOR *HUMBOLDT BAY*, MONTEREY  
6 BAY, AND THE BAYS OF SAN FRANCISCO, SAN PABLO,  
7 AND SUISUN  
8

9 SEC. 2. Section 1100 of the Harbors and Navigation Code is  
10 amended to read:

11 1100. The Legislature finds and declares that it is the policy  
12 of the state to ensure the safety of persons, vessels, and property  
13 using *Humboldt Bay*, Monterey Bay, and the Bays of San  
14 Francisco, San Pablo, and Suisun, and the tributaries thereof, and  
15 to avoid damage to those waters and surrounding ecosystems as a  
16 result of vessel collision or damage, by providing competent,

1 efficient, and regulated pilotage for vessels required by this division  
2 to secure pilotage services.

3 SEC. 3. Section 1101 of the Harbors and Navigation Code is  
4 amended to read:

5 1101. The Legislature further finds and declares all of the  
6 following:

7 (a) The maritime industry is necessary for the continued  
8 economic well-being and cultural development of all California  
9 citizens.

10 (b) The Bays of San Francisco, San Pablo, and Suisun provide  
11 a vital transportation route for the maritime industry.

12 (c) The increase in vessel size and traffic, and the increase in  
13 cargoes carried in bulk, particularly oil and gas and hazardous  
14 chemicals, create substantial hazards to the life, property, and  
15 values associated with the environment of those waters.

16 (d) The federal government has long adopted the policy of  
17 providing minimum standards that ensure port and waterway safety  
18 while encouraging state control over pilot qualifications and  
19 licensing.

20 (e) A program of pilot regulation and licensing is necessary in  
21 order to ascertain and guarantee the qualifications, fitness, and  
22 reliability of qualified personnel who can provide safe pilotage of  
23 vessels entering and using *Humboldt Bay*, Monterey Bay, and the  
24 Bays of San Francisco, San Pablo, and Suisun.

25 (f) The need to ensure safe and pollution-free waterborne  
26 commerce requires that pilotage services be employed in the  
27 confined, crowded, and environmentally sensitive waters of those  
28 bays.

29 (g) Bar pilotage in the Bays of San Francisco, San Pablo, and  
30 Suisun has continuously been regulated by a single-purpose state  
31 board since 1850, and that regulation and licensing should be  
32 continued.

33 (h) The individual physical safety and well-being of pilots is of  
34 vital importance in providing required pilot services.

35 SEC. 4. Section 1105 of the Harbors and Navigation Code is  
36 amended to read:

37 1105. This division applies to pilots for *Humboldt Bay*,  
38 Monterey Bay, and the Bays of San Francisco, San Pablo, and  
39 Suisun.

SEC. 5. Section 1110 of the Harbors and Navigation Code is amended to read:

1110. (a) “Bays of San Francisco, San Pablo, and Suisun” means all the waters of those bays and of the tributaries, ports, and harbors of those bays, and includes the water areas from the south end of San Francisco Bay and from the Ports of Sacramento and Stockton to the Golden Gate Bridge. “Bay of San Francisco, San Pablo, or Suisun” means any of those waters, respectively.

(b) “*Humboldt Bay*” means all the waters of that bay and of the tributaries, ports, and harbors of that bay.

(c) “Monterey Bay” means all the waters of that bay and of the tributaries, ports, and harbors of that bay.

SEC. 6. Section 1112 of the Harbors and Navigation Code is amended to read:

1112. “High seas” includes all the navigable waters of the Pacific Ocean west of the Golden Gate Bridge, and all navigable waters west of the westward boundary of the pilotage grounds for *Humboldt Bay* and Monterey Bay.

SEC. 7. Section 1114.5 of the Harbors and Navigation Code is amended to read:

1114.5. “Pilotage grounds” means all waters extending eastward from the precautionary area surrounding buoy SF to, and including, the Bays of San Francisco, San Pablo, and Suisun, and also includes the waters of *Humboldt Bay*, eastward of a straight line drawn between\_\_\_\_, and the waters of Monterey Bay, eastward of a straight line drawn between Point Santa Cruz Light and Point Pinos Light.

SEC. 8. Section 1125 of the Harbors and Navigation Code is amended to read:

1125. (a) ~~Pilots~~—A pilot licensed by the board ~~have~~ has exclusive authority, to the extent not provided otherwise by federal law, to pilot vessels from the high seas to *Humboldt Bay*, Monterey Bay, and the Bays of San Francisco, San Pablo, and Suisun and the ports thereof, and from those bays and ports to the high seas. ~~They~~ A pilot shall also have exclusive authority to pilot vessels within and along the waters of those bays, except as otherwise set forth in this division.

(b) Nothing in this division shall interfere with pilotage regulations of *Humboldt Bay*, Monterey Bay, and of the Ports of

1 Sacramento and Stockton, nor prevent the regulatory authority of  
2 those ports from utilizing ~~the pilots~~ *a pilot* licensed pursuant to  
3 this division.

4 SEC. 9. Section 1126 of the Harbors and Navigation Code is  
5 amended to read:

6 1126. (a) ~~Every~~ *A* person who does not hold a license as a  
7 pilot or as an inland pilot issued pursuant to this division, and who  
8 pilots ~~any~~ *a* vessel into or out of ~~any~~ *a* harbor or port of *Humboldt*  
9 *Bay, Monterey Bay* ~~and, or~~ the Bay of San Francisco, San Pablo,  
10 or Suisun, or who acts as a pilot for ship movements or special  
11 operations upon the waters of any of those bays, is guilty of a  
12 misdemeanor. In addition to the fines or other penalties provided  
13 by law, the court may order that person to pay to the pilot who is  
14 entitled to pilot the vessel the amount of pilotage fees collected.  
15 ~~No fees~~ *A fee* shall *not* be paid for pilotage if a state-licensed pilot  
16 refuses to join the vessel under paragraph (5) of subdivision (c).

17 (b) ~~Any~~ *A* person may also be enjoined from engaging in the  
18 pilotage prescribed by subdivision (a) by a court of competent  
19 jurisdiction.

20 (c) This section does not apply to any of the following persons:

21 (1) The master of a vessel who has relieved the pilot to ensure  
22 the safe operation of the vessel, but only from the point where the  
23 pilot is relieved to the closest safe berth or anchorage, or the high  
24 seas if closer than a safe berth or anchorage.

25 (2) ~~Persons~~ *A person* piloting ~~vessels~~ *a vessel* pursuant to the  
26 valid regulatory authority of the Port of Sacramento or the Port of  
27 Stockton.

28 (3) ~~Persons~~ *A person* piloting ~~vessels~~ *a vessel* sailing under an  
29 enrollment, as specified in Section 1127.

30 (4) ~~Persons~~ *A person* piloting ~~vessels~~ *a vessel* pursuant to Section  
31 1179.

32 (5) ~~Persons~~ *A person* piloting ~~vessels~~ *a vessel* when a  
33 state-licensed pilot refuses to join the vessel. However, a vessel  
34 ~~may~~ *shall* not hire a pilot not licensed by the state until a  
35 representative of the vessel notifies the port agent or his or her  
36 designee that the vessel will hire a pilot not licensed by the state  
37 unless a state-licensed pilot offers to join the vessel immediately.  
38 The port agent or his or her designee shall notify the executive  
39 director of the board or his or her designee that this paragraph  
40 applies.

(d) The exemption set forth in paragraph (5) of subdivision (c) does not apply in instances where a state licensed pilot refuses to join a vessel because of suspected safety violations concerning that vessel's pilot hoists or pilot ladders.

SEC. 10. Section 1127 of the Harbors and Navigation Code is amended to read:

1127. (a) The Legislature finds and declares that it is the policy of the state to ensure the safety of persons, property, and vessels using the waters of *Humboldt Bay*, Monterey Bay, and the Bays of San Francisco, San Pablo, and Suisun and to avoid damage to those waters and surrounding ecosystems as a result of vessel collision or damage by providing competent, efficient, and regulated pilotage for vessels required by this division to secure pilotage services.

(b) ~~Nothing in this~~ This section ~~shall~~ does not supersede, modify, or otherwise alter pilot practices that are not safety related, including, but not limited to, the determination of rates charged for pilot services or employer-employee relationships for individuals, agencies, or organizations involved in providing pilotage services between ~~any~~ a port of *Humboldt Bay*, Monterey Bay ~~and, or the Bays~~ Bay of San Francisco, San Pablo, ~~and or~~ Suisun and ~~any other~~ another port of the United States that is in existence on December 31, 1995, or otherwise abridge the authority of a local port or harbor ~~districts~~ district relating to pilotage in effect on December 31, 1995.

(c) The board shall regulate pilotage on waters of the state as provided in this division.

(d) ~~Every~~ A vessel sailing under a coastwise license or appropriately endorsed registry and engaged in the coasting trade between ~~any~~ a port of *Humboldt Bay*, Monterey Bay ~~and, or the Bays~~ Bay of San Francisco, San Pablo, ~~and or~~ Suisun and ~~any other~~ another port of the United States is exempt from all pilotage charges unless a pilot or inland pilot is actually employed. ~~Every~~ A foreign vessel and ~~every~~ a vessel bound between a foreign port and ~~any~~ a port of *Humboldt Bay*, Monterey Bay ~~and, or the Bays~~ Bay of San Francisco, San Pablo, ~~and or~~ Suisun, and ~~every~~ a vessel sailing under a register between ~~any~~ a port of *Humboldt Bay*, Monterey Bay ~~and, or the Bays~~ Bay of San Francisco, San Pablo, ~~and or~~ Suisun and ~~any other~~ another port of the United States,

1 shall use a pilot or inland pilot holding a license issued pursuant  
2 to this division, except as otherwise provided by law.

3 (e) Subdivision (d) does not apply to a vessel that is less than  
4 300 gross tons and is manufactured and used for private recreation.

5 SEC. 11. Section 1128 of the Harbors and Navigation Code is  
6 amended to read:

7 1128. ~~Any~~A nonself-propelled vessel in tow of a tug within  
8 *Humboldt Bay*, Monterey Bay ~~and, or~~ the Bay of San Francisco,  
9 San Pablo, or Suisun, or between those bays, is exempt from  
10 pilotage charges unless a pilot is actually employed.

11 SEC. 12. Section 1132 of the Harbors and Navigation Code is  
12 amended to read:

13 1132. ~~Every~~A pilot in charge of a vessel arriving in *Humboldt*  
14 *Bay*, Monterey Bay ~~and, or~~ the Bay of San Francisco, San Pablo,  
15 or Suisun, shall safely moor the vessel in place and position as  
16 directed by the master of the vessel, consistent with safe navigation  
17 and not contrary to law.

18 SEC. 13. Section 1133 of the Harbors and Navigation Code is  
19 amended to read:

20 1133. ~~Every~~A pilot in charge of a vessel leaving the Bays of  
21 San Francisco, San Pablo, and Suisun shall pilot it from its point  
22 of departure to a point beyond the San Francisco bar. ~~Every~~A pilot  
23 in charge of a vessel leaving *Humboldt Bay* or Monterey Bay shall  
24 pilot it from its point of departure to a point westward of the  
25 pilotage grounds.

26 SEC. 14. Section 1140 of the Harbors and Navigation Code is  
27 amended to read:

28 1140. (a) ~~No~~A person shall *not* hold both a pilot license and  
29 an inland pilot license concurrently.

30 (b) It is the intent of the Legislature to provide for a unified  
31 system of state regulated pilotage for *Humboldt Bay*, Monterey  
32 Bay, and the Bays of San Francisco, San Pablo, and Suisun.

33 (c) The Legislature finds and declares that unified pilotage will  
34 be beneficial to the safety of people, vessels, and property using  
35 those bays and tributaries.

36 (d) The Legislature further finds and declares that unified  
37 systems of regulated pilotage are common to the ports of the world  
38 and are most familiar to, and best able to serve, both foreign and  
39 domestic vessels.

SEC. 15. Section 1141 of the Harbors and Navigation Code is amended to read:

1141. (a) ~~Each~~A pilot license shall be valid for a period of one year and shall be renewed upon application and successful completion of the physical examination required by Section 1176.

(b) A pilot license shall not be renewed if the pilot possessing the license does not actively pilot vessels for ~~any~~ a consecutive period of one year, unless the board determines the pilot is qualified and makes one of the following findings:

(1) The pilot has presented satisfactory proof of medical disability during that period.

(2) The board has granted the pilot a leave of absence without pay during that period.

(3) The pilot has been serving as port agent under Section 1130.

(c) A pilot licensee shall at all times hold an active and proper license to pilot vessels on the waters on which the pilot operates.

(d) The board may revoke or suspend the license of ~~any~~ a pilot who does not use proper equipment maintained exclusively for pilotage or who operates on territorial waters not described in the license. This subdivision shall not be construed to require the use of a pilot boat in order to provide pilotage services for *Humboldt Bay or Monterey Bay*.

SEC. 16. Section 1150 of the Harbors and Navigation Code is amended to read:

1150. (a) There is in the Business, Transportation and Housing Agency a Board of Pilot Commissioners for the Bays of San Francisco, San Pablo, and Suisun, consisting of seven members appointed by the Governor, with the consent of the Senate, as follows:

(1) Two members shall be pilots licensed pursuant to this division.

(2) Two members shall represent the industry and shall be persons currently engaged as owners, officers, directors, employees, or representatives of a firm or association of firms that is a substantial user of pilotage service in *Humboldt Bay, Monterey Bay, or the Bay of San Francisco, San Pablo, or Suisun*, ~~or Monterey~~; one of whom shall be engaged in the field of tanker company operations, and one of whom shall be engaged in dry cargo operations. The board of directors of a regional maritime trade association controlled by West Coast vessel operators that



specifically represents the owners and operators of vessels or barges engaged in transportation by water of cargo or passengers from or to the Pacific area of the United States shall nominate, rank, and submit to the Governor the names of three persons for each category of industry member to be appointed.

(3) Three members shall be public members. ~~Any~~ A person may serve as a public member unless otherwise prohibited by law, except that during his or her term of office or within the two years preceding his or her appointment, ~~no a public member appointed may shall not~~ have (A) ~~any a~~ financial or proprietary interest in the ownership, operation, or management of tugs, cargo, or passenger vessels, (B) sailed under the authority of a federal or state pilot license in waters under the jurisdiction of the board, (C) been employed by a company that is a substantial user of pilot services, or (D) been a consultant or other person providing professional services who had received more than 20 percent in the aggregate of his or her income from a company that is a substantial user of pilot services or an association of companies that are substantial users of pilot services. Ownership of less than one-tenth of 1 percent of the stock of a publicly traded corporation is not a financial or proprietary interest in the ownership of tugs, cargo, or passenger vessels.

(4) Notwithstanding any other ~~provision of~~ law, this chapter does not prohibit the Governor from notifying the nominating authority identified in paragraph (2) that persons nominated are unacceptable for appointment. Following that notification, the nominating authority shall submit a new list of nominees to the Governor, naming three persons, none of whom were previously nominated, from which the Governor may make the appointment. This process shall be continued until a person nominated by the nominating authority and satisfactory to the Governor has been appointed.

(b) ~~Each of the members~~ A member appointed pursuant to paragraphs (1) and (2) of subdivision (a) shall be appointed for a four-year term, and ~~may shall~~ not be appointed for more than two terms. ~~Members~~ A member appointed pursuant to paragraph (3) of subdivision (a) shall be appointed with staggered four-year terms with the initial four-year terms expiring on December 31 of the years 1988, 1990, and 1991, respectively, and a person ~~may shall~~ not be appointed for more than two terms. Vacancies on the

1 board for both expired and unexpired terms shall be filled by the  
2 appointing power in the manner prescribed by subdivision (a).

3 (c) A quorum of the board members consists of four members.  
4 All actions of the board shall require the vote of four members, a  
5 quorum being present.

6 (d) The Secretary of the Business, Transportation and Housing  
7 Agency shall serve as an ex officio member of the board who,  
8 without vote, may exercise all other privileges of a member of the  
9 board.

10 SEC. 17. Section 1170.3 of the Harbors and Navigation Code  
11 is amended to read:

12 1170.3. (a) The board shall adopt, by regulation, a pilot's  
13 conflict-of-interest code, which shall include, but need not be  
14 limited to, a provision specifying that a pilot shall not have any  
15 interest in, or derive any income from, any tugboat in operation  
16 on *Humboldt Bay*, Monterey Bay, and the Bays of San Francisco,  
17 San Pablo, and Suisun. This requirement of divestiture does not  
18 apply to the ownership of barges and vessels similar to barges.

19 (b) The conflict-of-interest code shall not prohibit the ownership  
20 of stock in ~~any~~ a corporation registered on a national securities  
21 exchange or on the National Market System of the NASDAQ Stock  
22 Market, pursuant to Section 78f of Title 15 of the United States  
23 Code, which may own tugboats in operation on *Humboldt Bay*,  
24 Monterey Bay, and the Bays of San Francisco, San Pablo, and  
25 Suisun.

26 SEC. 18. Section 1177 of the Harbors and Navigation Code is  
27 amended to read:

28 1177. (a) ~~All pilots~~ A *pilot* licensed pursuant to this division  
29 shall have and maintain proper federal endorsements allowing  
30 ~~them~~ *him or her* to pilot on the high seas and on all waters of the  
31 Bays of San Francisco, San Pablo, and Suisun, excluding the San  
32 Joaquin River and the Sacramento deep water ship channel.

33 (b) Notwithstanding subdivision (a), ~~all pilots~~ a *pilot* issued an  
34 original ~~license~~ *license* pursuant to this division after December  
35 31, 1987, shall have and maintain proper federal endorsements  
36 allowing ~~them~~ *him or her* to pilot on the high seas and on all waters  
37 of the Bays of San Francisco, San Pablo, and Suisun, including  
38 the San Joaquin River and the Sacramento deep water ship channel.

39 (c) ~~All pilots~~ A *pilot* licensed pursuant to this division for  
40 *Humboldt Bay and Monterey Bay* shall have and maintain proper

1 federal endorsements allowing ~~them~~ *him or her* to pilot on the high  
2 seas and on all the waters of *Humboldt Bay or Monterey Bay,*  
3 *respectively.*

4 SEC. 19. Section 1190.1 of the Harbors and Navigation Code  
5 is amended to read:

6 1190.1. ~~Every~~ *(a) A vessel that uses a pilot under this division*  
7 *while navigating the waters of Monterey Bay shall pay the rate*  
8 *provided by subdivisions (a) and (e) of Section 1190.*

9 *(b) A vessel that uses a pilot under this division while navigating*  
10 *the waters of Humboldt Bay shall pay the rate provided by*  
11 *subdivisions \_\_\_\_\_ of Section 1190.*

12 SEC. 20. Section 1192 of the Harbors and Navigation Code is  
13 amended to read:

14 1192. If a vessel that is subject to the payment of pilotage enters  
15 ~~any~~ *a port of Humboldt Bay, Monterey Bay and, or the Bays Bay*  
16 *of San Francisco, San Pablo, or Suisun solely by reason of being*  
17 *in distress or requiring care, it shall pay one-half the full pilotage*  
18 *rates.*

19 SEC. 21. Section 1195 of the Harbors and Navigation Code is  
20 amended to read:

21 1195. (a) In addition to other fees for pilotage, there shall be  
22 a surcharge in an amount established by the board for each  
23 movement of a vessel using pilot services for each pilot trainee  
24 who is enrolled in the pilot trainee training program established  
25 by the board.

26 (b) The moneys charged and collected each month from the  
27 pilot trainee surcharge shall be paid to the board. The moneys shall  
28 be used only to fund the pilot trainee training program in the  
29 manner established by the board.

30 (c) By action of the board, the board may adjust the amount  
31 established pursuant to subdivision (a) as necessary to efficiently  
32 administer the pilot trainee training program.

33 *(d) A pilot licensed for Humboldt Bay by the Humboldt Bay*  
34 *Harbor, Recreation, and Conservation District shall be accepted*  
35 *into the pilot trainee training program for training on the Bays of*  
36 *San Francisco, San Pablo, and Suisun.*

37 SEC. 22. No reimbursement is required by this act pursuant to  
38 Section 6 of Article XIII B of the California Constitution because  
39 the only costs that may be incurred by a local agency or school  
40 district will be incurred because this act creates a new crime or

1   infraction, eliminates a crime or infraction, or changes the penalty  
2   for a crime or infraction, within the meaning of Section 17556 of  
3   the Government Code, or changes the definition of a crime within  
4   the meaning of Section 6 of Article XIII B of the California  
5   Constitution.

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